

REMARKS

Applicants respectfully request reconsideration of the above-referenced U.S. Patent application. No claims have been added or amended. Claims 19-22 have been withdrawn. Thus, claims 5-18, and 23-29 are pending.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 5-14, 19-22, and 26-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent No. 06-062400 issued to Ogata, et al. (*Ogata*), in view of U.S. Patent No. 5,953,050 issued to Kamata, et al. (*Kamata*), in view of U.S. Patent No. 5,550,580 issued to Zhou (*Zhou*), and further in view of European Patent Application No. EP 0254409 A1 published by Taylor (*Taylor*). For at least the reasons set forth below, Applicant submits that claims 5-14, 19-22, and 26-29 are not rendered obvious in view of *Ogata*, *Kamata*, *Zhou*, and *Taylor*.

The Manual of Patent Examining Procedure ("MPEP"), in § 706.02(j), states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added). Thus, the MPEP and applicable case law require that the Office action establish a motivation to combine references that teach or suggest all of the claim limitations of rejected claims to establish a *prima facie* case of obviousness under 35 U.S.C. § 103.

Thus, an Office Action is required to offer objective reasoning to combine reference teachings while relying on something more than hindsight-based obviousness.

Independent claim 15 recites:

analyzing whether visual lip movements of said conferee are reasonably consistent with an audio signal from a conference station in which said conferee is located such that the combination of lip movement and audio signal indicates human speech.

Independent claim 5 similarly recites “determining whether a conferee is speaking based, at least in part, on whether visual lip movements of said conferee are substantially consistent with an audio signal from a conference station in which said conferee is located.” Independent claim 11 similarly recites, “analyzing whether visual lip movements of said conferee are substantially consistent with an audio signal at said station so as to indicate human speech.” Independent claim 14 similarly recites, “analyzing a consistency between visual lip movements of said conferee and an audio signal from a conference station in which said conferee is located such that the combination of lip movement and audio signal indicates human speech.” Independent claims 16, 23, and 26 recite similar limitations.

The Office action states that neither *Ogata*, *Kamata*, nor *Zhou* disclose “analyzing whether lip movements of said conferee are reasonably consistent with an audio signal from a conference station,” as recited in claims 5, 11, 14-16, 23, and 26. The Applicant respectfully agrees that neither *Ogata*, *Kamata*, nor *Zhou* teach or suggest the above-stated claim limitation. The Office action cites Taylor as teaching the above-stated claim limitation missing from *Ogata*, *Kamata*, and *Zhou*. Whether or not *Taylor* teaches the above-stated claim limitation, the Applicant submits that *Taylor* teaches away from *Zhou* and there is no motivation to combine them.

Zhou puts an emphasis on “significant bit rate reductions” that can be obtained by allocating bits among the video and audio signals “based on the perceptual significance”

of the info (see col. 3, lines 50-55). *Zhou* further states a feature of the invention being that “the audio signal will be encoded with a speech specific audio encoding technique when the audio signal consists of voice signals, and will be encoded with a non-speech specific audio encoding technique when the audio signal does not necessarily consist of voice signals” (col. 2, lines 42-47). In essence, *Zhou* sets a threshold on the amount of encoded data. If voice data is to be encoded with greater accuracy, then the video data must be encoded with lesser accuracy, and vice versa. Thus, *Zhou* seeks opportunities to reduce bit rates by **reducing the accuracy** of voice or video signals.

In contrast to *Zhou*, *Taylor* seeks to **increase accuracy** by including hardware such as multiple pattern matching units, a comparison unit, a visual processing unit for video signals, a voice sensing unit preferably including a larynogograph, a spectral analysis unit, a spectral correction unit, and a feedback device – all implemented to increase accuracy of audio and video signals (see col. 2, lines 8-25 and col. 3 line 42 – col. 5 line 34). A logical byproduct of this hardware is increased bit rates. Thus, *Taylor* effectively teaches away from *Zhou* and it would therefore not be logical nor obvious to combine these references to achieve the invention claimed by the Applicant.

The MPEP, in § 2143.01, states:

A statement that modifications of the prior art to meet the claimed invention would have been “ ‘well within the ordinary skill of the art at the time the claimed invention was made’ ” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some **objective reason to combine the teachings of the references**. *Ex part Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

(Emphasis added). Because *Zhou* and *Taylor* implicitly teach away from each other, the Applicant submits that there is no objective reason or motivation to combine the teachings of *Zhou* and *Taylor* to achieve the invention as claimed by the Applicant. Therefore, the combination of *Ogata*, *Kamata*, *Zhou*, and *Taylor* does not render claims 5, 11, 14-16, 23, and 26 obvious.

Claims 6-10 and claim 29 depend from claim 5 and claims 12 and 13 depend from claim 11. Claims 17 and 18 depend from claim 16. Claims 24 and 25 depend from claim 23. Claims 27 and 28 depend from claim 26. Applicant respectfully submits that claims 6-10, 12-13, 17-18, 24-25, and 27-29 are not rendered obvious by *Ogata*, *Kamata*, *Zhou*, and *Taylor* for at least the reason that dependent claims include the limitations of the claims from which they depend. Thus, Applicant respectfully submits that claims 5-18 and 23-29 are not rendered obvious by *Ogata*, *Kamata*, and *Zhou*.

Conclusion

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 5-18 and 23-29 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account
number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: March 25, 2004

Philip A. Pedigo
Philip A. Pedigo
Reg. No. 52,107

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
Telephone: (503) 684-6200